

### REMARKS

This is in response to the second telephone interview of May 27, 2005 between applicant's attorney, C. Brandon Browning and the Examiner, Joseph C. Merek and the Office action dated June 29, 2005.

Applicant has amended claims 1, 11 and 19. Support for the amendments can be found in the application as originally filed at page 3, line 21 to page 4, line 7, page 4, lines 15-20, page 5, line 21 to page 6, line 2 and Figures 1 through 3. No new matter has been added.

Claims 1-4, 8, 9, 11-15 and 18-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Munday (U.S. Patent No. 1,983,239). Applicant respectfully traverses the §102(b) rejection on the grounds that Munday fails to disclose each and every feature of the claimed invention. Withdrawal of the rejection is requested.

In support of the §102(b), the Examiner states as follows:

Regarding claim 1, see Figs. 1 and 2, the container is capable of performing the claimed function. Regarding claims 2 and 12, the handle is 3. Regarding claims 3 and 4, the skirt on the lower end of the container is the means for maintaining the container upright on a surface and the tube 6 goes through an opening in the means. Regarding claim 11, the drinking vessel limitation does not require any structure that is not in the reference. The vessel is capable of being used for drinking as claimed. The means for preventing fluid flow through the tube is the valve 7. Regarding claims 8, 18, and 22, the device, which secures the tube to the wall, will also prevent flow from the tube since it maintains the tube of the height of the fluid. Regarding claims 9 and 13, see Fig. 1 of Munday. Regarding claim 14, the bottom is rim for maintaining the container upright on a surface. Regarding claim 15, Figs. 1, 2 and 6 show the tube going through an opening in the rim. Regarding claim 16, the structure, which holds the tube to the vessel, is a clamp. The claim does not specify any particular structure to the clamp. Regarding claim 19, the structure of Munday is a cup. The term cup does not require any structure that is not in the reference. The device is capable of evacuating by gravity or through the open top. Regarding claim 20, see Fig. 1 and 2 where elbow 5 connects the tube to the opening in the bottom of the vessel. The elbow will be I-shaped to connect the

opening and the tube. Regarding claim 21, see Figs. 1 and 2 where the bottom slants toward the hole.

The present invention is directed to a container including, among other things, a closed bottom having a centrally located aperture therethrough, a tube connected with the aperture, a securing means for securing the tube to the container and a rim that extends below the closed bottom and terminates in a lower edge. An opening defined by a portion of the lower edge extends radially through the rim for providing a passageway that can receive the tube when the tube is secured with the securing member.

In addition to allowing the container to rest upright on a surface while the tube is connected with the securing member, the configuration of the opening allows the tube to be easily removed from the opening by simply bending and/or straightening the tube, for example, downward and away from the lower edge. Thus, the tube can be quickly inserted and removed from the opening without having to detach the tube from the aperture. This way, the container can be quickly converted between configurations that allow the container to be evacuated either through the tube by gravity, e.g., by straightening the tube downward substantially perpendicular to the closed bottom so that fluid flow through the tube is not impeded by a bend or the like (*see* Application at page 4, lines 15-20) or through an open top of the container.

Munday fails to disclose the claimed opening extending radially through the sidewall and defined by a portion of the lower edge of the rim. Rather, Munday discloses a pipe elbow fixed to the bottom of a container that extends laterally through the wall of the container and connects with a hose or tube at its outer end. There is no disclosure in Munday of a rim having an opening that is defined by a portion of the lower edge of the

rim. Further, Munday fails to disclose an opening being adapted and arranged for both (1) receiving a tube and allowing a container to rest upright on a surface when the tube is secured with a securing member and (2) for removing the tube from the opening by bending and/or straightening the tube. Instead, the opening disclosed by Munday only allows the hose connected therethrough to be removed from the opening by unscrewing the hose from the elbow and pulling the hose lengthwise from the opening. That is because the opening of Monday is not defined in part by a lower edge of the container as is claimed in the present application. Thus, the opening disclosed by Munday is not adapted and arranged for both (1) receiving a tube and allowing a container to rest upright on a surface when the tube is secured with a securing member and (2) for removing the tube from the opening by bending the tube.

Since Munday fails to disclose each and every element of the claimed invention, withdrawal of the 35 U.S.C. §102(b) rejection is respectfully requested.

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Munday in view of Raboin (U.S. Patent No. 6,575,333) as applied to claim 6 above, and further in view of O'Donnell (U.S. Patent No. 6,036,061). Raboin and O'Donnell are relied on by the Examiner to make up for the shortcomings of Munday. Thus, the Examiner relies on these reference to teach tethering a closure to a wall of a container.

Applicant respectfully traverses the §103(a) rejection on the grounds that Munday, Raboin and O'Donnell, alone or in combination, fail to teach each and every feature of the claimed invention. In particular, the cited references fail to teach the claimed opening extending radially through the sidewall and defined by a portion of the lower edge of the rim and being adapted and arranged for both (1) receiving a tube and allowing a container

DOCSBHMA1306825\1\


9

to rest upright on a surface when the tube is secured with a securing member and (2) for removing the tube from the opening by bending the tube. Accordingly, withdrawal of the §103(a) rejection is requested.

Reconsideration and allowance of the claims are respectfully requested.

Respectfully submitted,

SIROTE & PERMUTT, P.C.

By:   
C. Brandon Browning  
Reg. No. 44,570  
205-930-5141

CBB:tr